IMPORTANT QUESTION BEFORE THE COURTS

Police Justices' Election Versus Appointment.

The November Election Investigation-Mr. Charlick Required to Verify His Testimony.

BUSINESS IN THE OTHER COURTS.

Does Not Retish Twenty Years in State Prison Two Suits Cannot Be Brought for the Same Cause of Action-Action for False Imprisonment-Proceedings in the General Sess ons.

Yesterday, in the United States District Courte Judge Blatchford rendered his decision in the case of William J. Holmes and others vs. The Steam. boat Ivanhoe and the schooner Martha M. Heath; and Samuel Carman and others vs. The Steamboat Ivanhoe. The nbeis in this case grew out of a col. lision in the East River, on the 13th of February, 1873, about ten o'clock A. M. The Judge dismisses the libel in the first case as to the Heath, with costs and in each of the other cases orders a decree against the Ivanhoc, with costs, with a reierence to ascertain the damages to be recovered by

THE OCEAN BANK CASE.

Trial of Callender Continued.

The trial of Charles Callender, who is indicted for having accepted a bilbe of \$76,000 under the circumstances already fully reported in the HERALD from day to day during the past week, was resumed yesterday in the United States Cirenit Court before Judge Benedict, at the court room, 27 Chambers street. Mr. A. H. Purdy, United States Assistant District

Attorney, conducted the prosecution, and Mr. William Fullerton appeared as counsel for the de-TESTIMONY OF C. W. BALDWIN.

C. W. Baldwin, who testified that he had been an officer of the Atlantic National Bank, which failed April 26, 1873, said he had before him a cashier's check on which Mr. Callender got money from the bank; he had the special loan check with Mr. Callender's indorsement upon it, and the demand note that was made for \$2,000; he bought these papers from the hands of the receiver of the bank; papers from the hands of the receiver of the bank; the papers had been in witness? possession as cierk to the receiver. (The papers were produced and offered in evidence by the Pittrict Attorney. Among these papers was a check for \$2,000 on the Atlantic National Bank, indorsed by Calender, and dated November 10, 1870.) Had not seen Callender wite, but believes the indorsement to be in his handwriting; did not see wast collaterals were given for the loan; he demand note was for \$2,000; knows that he (witness) made the entries about these matters in the books; as to the other transactions of Callender with the bank, he did not remember anything about them, except from the books. A question as to whether the witness knew the indeptedness of Mr. Callender to by Mr. Fuderton. The question was put in another form, and the witness said he knew of his own knowledge that Callender was hidebed to that bank; he knew this in two or three waysfirst, by the papers, and also from the lact that Callender had been to the receiver to see about the debt, and had been sued for it; does not remember that Mr. Callender had said anything about the debt; the papers which he had produced came from the bank as assets of the bank; there were notes of \$5,000 cach, made by Alfred Wild and indorsed by P. J. Avery, W. L. Avery and J. E. Conant, and a note for \$1.500 at sixty days, and for these \$25,000 of Portage Lake and Lake Surerior bonds had been collaterals; knows that a suit has been commenced against Callender for his indeptedness to the Atlantic Bank; served the summons on Callender the other day.

Q. Do vou reccollect the amount? Objected to. Judge Benedict—Produce the summons? A. No. Cross-examined—I cannot say who left the \$25,000 of Portage Lake bonds as security for these loans; I did not know what was left at the time; I know now that certain things in the bank are stated to be collaterals; or those loans; they were with the collaterals for those loans; they were with the collaterals for those loans; they were with the collater the papers had been in witness' possession as clerk to the receiver. (The papers were produced

ateral about that the collaterals missing at the time.

O. Were any of the collaterals missing at the time.

Vest they have not been Q. Were any of the collaterals missing at the time the bank halled? A. Yes; they have not been found yet; the bank was examined in February, 1873, and it falled in April, 1873; I do not know if there was any paper under project; these loans were demand loans; they had been running at different times, for jour of five years; some of them had been of long standing; I served this summons on Mr. Callender at the request of Mr. John L. Callender a and been of long standing; I served this summons on Mr. Callender at the request of Mr. John L. Cad-wainder, counsel for the receiver of the bank; the summons was served the day before yesterday; I had it some few days in my pocket, as I did not happen to see Mr. Callender; the paper produced is the summons.

Fullerion said that he would, at the proper Mr. Fullerton said that he would, at the proper time, oner this summons in evidence. At the re-quest of Mr. Purdy, Mr. Fullerton handed the paper to the former, who, after examining it, said he would put it in as evidence for the prosecution. Mr. Fullerton said Mr. Purdy should not do any-thing of the kind; he could not get the paper in by a trick of that kind. He (Mr. Fullerton) would offer the paper, at the right time, in an orderly and proper manner.

a trick of that kind. He (Mr. Fullerton) would offer the paper, at the right time, in an orderly and proper manner.

TESTIMONY OF MR. JAMES E. SOUTHWONTH.

Mr. James E. Southworth testified:—I was President of the Atlantic National Bank at the time of its failure; I know Charles Callender: I made ionals to him; I made one loan of \$2.000 November 19, 1876; I discounted a note for \$5,000 endorsed by Callender; I tunk I may say that there were two notes of \$5,000 each—\$19,000—discounted for him; I was a loan made at his request; it was a require discount; I think I discounted several other pieces of paper for him at different times.

Q. At the time of the failure of the bank do you know whether these loans—discounte had been paid; A. Yes, one of these \$5,000 notes has been paid; the other notes that I discounted for him have been paid; except \$5,000 call loan, the \$5,000 notes and the \$1,500; there were no collateral securities for the \$5,000 and \$1,500 notes; they were discounted without collaterals; they were not paid when they became due; I went to see Mr. Allied Wild, the maker of the notes, two or three times, and spoke to him; also saw Mr. Callender, and pressed him for payment; he fell back on the maker and endorsers of the notes, saying that they would make an arrangement to take them up very soon; I went after them for a week or so; as I could not get the money from the maker or endorser I spoke to Mr. Callender, and he gave me \$25,000 of bonds of the Portage Lake and Lake Superior Canal. (Bond produced.) This is one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds that he gave me; one of the same kind of bonds t

School Stock; the Alianue National Bank miled April 26, 1873.

Q. Is it not a fact that Mr. Taintor, the cashier of that bank, was in the habit of taking the money of that bank and speculating with the in wall street?

A. Not to my knowledge—not a dollar.

Q. When did Taintor first begin to take this money out of the bank? A. I do not know; I cannot say how much legal tenders the bank had on hand when making this loan to Callender.

Q. Did you ever receive from the Comptroller of the Currency a letter marked "private and confidential," asking you to make good or strengthen some of the secorities in the bank? A. I got such a letter, but I do not know that it was private, nor do I know that it was opened by any one but myself; if it was marked private it was not likely to be opened by any one but myself; if cannot say whether that letter is; I cannot say whether Mr. Taintor did or did not know of those loans; I suppose he knew alterwards by seeing the discounted papers in the bank.

The witness was cross-examined at some length by Mr. Pullerton, and he stated that before he took the Portage Lake bonds from Mr. Callender he seat to the Union Trust Company to see if

THE COURTS.

they had the mortgage back of those bonds as they were the trustees of the series of bonds that witness had; he made inquiries as to the value of the bonds from the President of the trust Company, from whom he got nothing very definite as to the marketable or intrinsic value of the bonds. The President of the Trust Company told him that he had the mortgage, covering several nundreds or thousands of acres of times were all good and period to be time trust company told him that he had the mortgage, covering several nundreds or thousands of acres of times were all good and period before they issued the bonds, so that he (witness) might rest assured they had a good title; and, in the rest assured they had a good title; and, in the remarked they had a

CARE for the GARBULOUS STATEMENTS OF OLD PROTHINGHAM." GARRICLOUS STATEMENTS OF OLD FROTHINGHAM."
Judge Benedict (in an earnest tone of voice)—
One moment. I must not allow this to go on. You should not speak of gentlemen in this way. Your real carries you away. I must reprimand you, for I do not think it is good taste to use such language and it is not proper. I yield something to your earnestness in this case, but I must again say that you do not gain anything by using such epithels to gentlemen witnesses.

Mr. Purdy—I do not know that Mr. Frothingham is in court. Yesterday I heard counsel on the other side insult a witness in a very decided manner, and counsel was not reprimanded.
Judge Benedict—Whether I did my duty yesterday is not the question. I can appreciate your position, but I must again repeat that you ought not to indulge in epithels of this kind. They can do no good.

After this episode the witness went on to state that the page meaning of the first this episode the witness went on to state that the sease meaning of the first hear meaning of the first hear

position, but I must again repeat that you ought not to indulge in epithets of this kind. They can do no good.

After this episode the witness went on to state that he had inquired of Mr. Frothingham, the President of the Union Trust company, it the gentlemen who acted as representatives of the President of the Union Trust company, it the gentlemen who acted as representatives of the Portage Lake and Lake Superior Company had been recommended to him as persons of integrity, he said one of the gentlemen was a United States bank examiner, and spoke of Avery, Wild and Conant; had heard at the time of Mr. Wild and his circumstances; heard that he was a man of large responsibility; that was his reputation on the street in N. W fork; witness thought the bonds would be worth as much as the loan; \$25,000 of the bonds were leit with nim; there may be semeting in the books of the bank to show it; is positive that when he discounted the paper the bonds were not left with him; had been told that he could get ten cents of the dollar for the bonds or that they were worth so much; think it was Mr. Davis, the receiver of the Ocean Bank, who told him that; can't say when that was; can't say it was a direct offer; refused the offer.

To Mr. Purdy—Made loans to Callender before that was paid; they were business paper; the loans at any one time did not exceed \$10,000; when discounting the paper made inquiries and heard that Callender was reputed to be a man of responsibility; had not loaned before on Portage Lake bonds: those bonds had not a marketable value on the Stock Exchange; does not think he would have loaned a dollar to any person on those securities but Callender.

TESTIMONY OF JOHN S. HARTSHORN AND OTHERS. John S. Hartshorn testified at some length in regard to Callender's having overdraits at the Ocean National Bank.

Alter some additional testimony on the Shoe

gard to Callender's having overdraits at the Ocean National Bank.

After some additional testimony on the part of the prosecution by Mr. John M. Crane, of the Shoe and Feather Bank, and Mr. Henry Beekman, late President of the Union Square Bank, Mr. W. A. Thompson, President of the Merchants' Exchange Bank, testafied that in the latter part of 1876 or 1871 he refused to lead money to Callender on the security of the Portage Lake bonds; he did not consider the bonds marketable.

HAS NEW YORK A COURT OF SPECIAL SESSIONS?

Important Question as to the Constitutionality of the Court-A Claim that the Judges Can Only be Elected and that Their Appointment by the Mayor is Illegal.

Early last month George Coyle was arrested on a charge of assaulting a young lady, taken before the Court of Special Sessions, tried, convicted and sentenced to the Penttentiary for six months. His counsel, Mr. William F. Howe, objected to the jurisdiction of the Court, claiming that it was not a legally constituted one. To test the question he obtained a writ of certiorari from Jadge Barrett, at Supreme Court, Chambers, and thence carried the case to the Supreme Court, General Term, where it was argued at length yesterday, Jadges brady, Danties and Westerook being on the bench. The first point raised by Mr. Howe, was that the act of May, 1873, enartied "An act to secure oetter administration in the police courts of the city of New York," and under which the present police justices were appointed by the Mayor and Aidermen, is unconstitutional, because it takes from the people the power to eject the police justices and confers the power of appointment on that if the police justices be justices of the peace within the constitutional provision, then the act is unconstitutional, masmuch as that the term of those in office, when the amended judiciary article took effect, is destroyed before its expiration, which is a violation of the constitution. He insisted further, that when the amended judiciary article took effect, courts of Special Sessions were held by elected poince justices; that these courts were not inherior local courts, and that the judges anthorized to hold such courts cannot be appointed. Another point was that the Court of special Sessions of the Fence is a county court, that it has jurisalicition over all missiem anors committed within the county of New York, that it has a cierk and a seal, that being a county court the justices authorized to hold it are county officers, and that they cannot be appointed by the Mayor, because his office is only a city one. Being a county court the special Sessions, it was urged in addition, is continued, and its judges, when the samended article took effect, were to hold until the extitation of the term for which they had been elected. A point dwelt upon at great length was that whether the statue of 1873 se unconstitutional for the reasons previously assigned or not, the justices appointed by the mayor have he power to hold a Court of Special Sessions. Afte legally constituted one. To test the question he obtained a writ of certifrari from Judge Barrett. at Supreme Court, Chambers, and thence carried

right, and thereby involve the administration of justice in endless confusion.

After hearing the argument the Court took the papers, reserving its decision. Meantime it had been suggested by Mr. Lyon that all criminal cases on the calendar should be postponed, but Judge Brady insisted that this particular case was of too great poolic interest and involved too important legal points to admit of postponement.

THE CHARLICK INVESTIGATION.

Mr. Charlick Must Sign His Deposition or Take the Chance of Being Punished for Contempt of Court-Additional Testimony.

There is not the same interest shown there was in the earlier stages of the examination into the charges preferred against Police Commissioner Charlick of certain alleged irregularities in con-nection with the last November election. Quite a thinning out was apparent in the attendance yesterday, and, as on the last two or three occasions, neither Mr. Charlick nor his counsel. A. Oakey Hall, put in an appearance. Before the examina tion of witnesses was resumed, however, Mr. Wingate, counsel for the complainants, informed Judge Donohue that he had twice notified Mr. Charlick to appear and swear to his examination, but that he had not appeared or sent any excuse. Upon

to appear and swear to his examination, but that he had not appeared or sent any excuse. Upon this statement Judge Donchue directed counsel to make out an order to show cause why an attachment should not seme against Mr. Charlick. Inis preliminary matter disposed of the examination of witnesses was resumed.

The first witness called was Lawrence Slevens, of No. 450 Fourth avenue. He testified that he was a watcher in the Ninth Election district, Eighth Assembly district, for the Tammany county candidates; the police put him and all the other watchers outside the rail, and it was impossible for him to inspect the count in the early part of the evening; United States Marsaal Billon, who was intoxicated, put the inoffensive spectators out of the room.

John B. Doran, Tammany watcher in the Eighth Assembly district, was arrested on the morning of the election by a United States marsaal and ascharged at midday; he couldn't find the man whose name and address were given to him as the person making the affidavit that he had tried to induce a person to register laisely; never heard another word about the charge.

Mr. Hasbrook, Chief Clerk of the Bureau of Elections, was re-examined.—Was asked whether it was true that the inspectors of the Eleventh Assembly district were not named until October 1; his impression was that he didn't get the list of the democratic inspectors until after that date, but he couldn't tell what the Police Board did;

he believed the Elevent and Twenty first dis-trict inspectors were not furnished to him until

he believed the Eleventh and Twenty-first district inspectors were not jurished to him until very late; after October 1.

James McCarlney was present in the Ninth Election district. Eighth Assembly district, as watcher for Mr. McCabe. candidate for Assembly; he was appointed challenger for Mr. Groker besties; he was put out four times during the day, and the inspectors said they recognized no such authority; witness was inspector for a week previous to election, but was removed by Mr. Charlick, who told him half a dozen persons when he hamed had sworn that he told them he had boasted he would carry the district for Trummany, right or Wrong; this was all laise, and he told Mr. Charlick so, and asked wasn't there any way in which he could prove these allidavits were false, and Mr. Charlick made an evasive answer and removed him half an hour after; the character of some of these men is out; some are apolib Half men; he has heard that some of the men who made the adidavits are now in the Street Cleaning Department; on the evening he presented his credentials as watcher Captain Allaire told an officer to allow him inside the rail; after this Captain Assame told him to go outside the rail, where he counan't see the count.

Fatrick H. Maguire w's in the Eighth Election district, Eighth Assembly district, pasting up Tammany bills on the box; Mr. O'Brien came up at six o'clock; three United States marsanis followed him and arrested him; he heard a month previously that he was to oe arrested; that Mr. O'Brien was to get him arrested him; he heard a month previously that he was to oe arrested; that Mr. O'Brien was to get him arrested him; he heard a month previously that he was trying to get a man to register insert, whereas every one in the district knew he was not an inspector; he has tried once or twice to get him arrested him; he was adapted watcher; two or the O'Bries, and two of the B glins came in and wanted to put him back; they sent word to the station that he was there drunk, whereas he hadn't drank anything; th

BUSINESS IN THE OTHER COURTS.

SUPREME COURT -- GENERAL TERM. Does Not Relish Twenty Years in State

Before Judges Brady, Daniels and Westbrook. An effort is being made to secure a new trial for Morris Higgins, convicted recently in the Court of General Sessions upon an indictment for rane, and sentenced to the State Prison for twenty years. sentenced to the State Frison for twenty years. The case was argued yesterday in this Court by Mr. Whilam F. Howe, the prisoner's counsel. The main points raised was that the prisoner had been convicted upon the sole evidence of a woman who made no disclosure of the alleged crime until some time alterwards, and that her statement was not confirmed by the medical testimony. Mr. Lyon, Assistant District Attorney, Zealonsiy combated these points, and then the court took the papers.

SUPREME COURT-SPECIAL TERM. Decisions.

By Judge Van Brunt. Porter vs. Waring.—Findings settled.

SUPREME COURT--CHAMBERS. Decisions.

Decisions.

By Judge Donohne.

Greenwich Savings Bank vs. Murray; Daken vs. Martin; Geib vs. Getb; Dun vs. Murray; Balenw. Zea vs. Labaugh; in the matter, &c., Church of the Kesurrection.—Orders granted.

Hovey vs. Rubber 'lip Penell Company; Andrews vs. Low; Bedeli vs. Taylor.—Motions granted. Watson vs. Dailey; Ellis vs. Keyes; Cameron vs. Hain.—Motions denied.

Jourdan vs. Jourdan.—Decree of divorce granted. Reference.
Platt vs. Platt.—Granted.

Mount vs. Fowier.—Reference.

By Judge Lawrence.

Congregation Keneseth Israel, &c., vs. Congregation Keneseth Israel.—Ordered.

SUPERIOR COURT-C'RCUIT-PART 2. Cannot Ering Two Suits for the Same Cause of Action.

Before Justice Freedman. Luippold vs. Opermacht.—The plaintiff, a former copartner of defendant, caused the defendant's arrest, and claimed that the defendant made false representations to him, thereby inducing plaintiff representations to him, thereby inducing plantiff to enter into copartnership with him and defrauding him out of \$1,700. He brought suit to recover damages. The defence was, that before the commencement of this action the plaintiff recovered judgment against defendant in the Court of Common Pleas for the identical cause of action, and that this was a bar to this action. The Court so need, and the jury rendered a verdict for the defendant.

George Carpenter for plaintiff; L. Rindskopf for defendant.

SUPREME COURT-SPECIAL TERM.

Gregg vs. Howe et al.—Case settled.

By Judge Van Vorst.

Boehm et al. vs. Sturge.—Order settled and signed.

COURT OF COMMON PLEAS-SPECIAL TERM.

Decisions. Pfeister vs. Schmidt.—Motion denied. (See memorandum in Lang case.)
Lang vs. Same.—Motion denied. (See memoran-

Schmidt vs. Schmidt.—Divorce refused; affidavit Schmate vs. Schmate.—Provoe refused; amdavit of service detective. Adier vs. Adier.—Application denied; affidavit of service detective. The People ex rel. Stewart vs. Pinckney.—Appli-cation for mandamus denied. (See memorandum.) Weig vs. Schwartz.—Motion denied as to costs, but defendant may be allowed his actual disburse-ments.

MARINE COURT-PART 2. Action for False Imprisonment. Before Judge McAdam.

Before Judge McAdam.

O'Connell vs. Abearn.—Plaintin alleges that in
April, 1872, having lost a wager of a bottle of wine made with defendant on the result of a horse race, they met in a saloon in Capal street and drank the wine, after which they went to a liquor store in Pike street and commenced throwing dice, first for champagne wine and then for money. They continued to play until nine o'cl-ck the next morning, when the defendant having lost all his money without expressing any discatisfaction, went out and soon returned with two policemen, and accused plainting of having stolen his money. Plainting was arrested and locked up until the next day, when he was taken before Judge Shandiey. Defendant offered to withdraw the charge if plainting would give him \$100, which he refused to do, but finally consented to return all the money he had won from him, which was accepted and plainting was discharged. He now brings action to recover \$1,000 for lates imprisonment. The defendant testined that the charge he made against the plainting of stending his money was true, and his testimony was corroborated by that of two other witnesses who were present. The jury rendered a verdict for plainting for six cents damages. wine, after which they went to a liquor store

COURT OF GENERAL SESSIONS. Arraignment of McKay, the Alleged Fraudulent Stock Operator.

Before Judge Sutherland. Shortly after the opening of the Court yesterday Edward, D. C. McKay, who was indicted by the Edward, D. C. McKay, who was indicted by the Grand Jury for obtaining money by laise pretences, was arraigned and pleaded not guilty, his counsel reserving the right to witndraw that plea if it should be determined to put in a special plea. The accused is charged with defrauding James O. Stephens by laisely representing the value of the stock of the Western Union telegraph Company at the Stock Exchange. In the alternoon McKay was released from custody by furnishing \$10,000 ball.

An Assault with Intent to Maim. Bernard Clappenburgh pleaded guilty to an assault with intent to mann-the charge being that, on the 15th of November, he kicked Neille Wash in the breast and abdomen at No. 100 Greene street. The prisoner was sent to the State Prison for the period of four years, at hard labor.

Burglaries and Larcenies.

James McGovern pleaded guilty to an attempt at orgiary in the third degree, the indictment stating that he and a confederate broke the window of Louis Beiner's liquor store. No. 129 Crosby street, and stole three busies of hiquor Joseph Johnson, who was charged with stealing a silver watch from Officer Parker, of the Twenty first preemet, on the 2d of March, pleaded guilty to an attempt at petit harceny from the person. These prisoners were each sent to the State Prison for two years and six months. John W. Wilson, who on the 10th of March stole 348 worth of embroidery, the property of Jafray & Co., No. 350 Broadway, from an express wagon, pleaded guilty to an attempt at grand larceny. John Wagner was tried and lound guilty of stealing that he and a confederate broke the window of

ing two overcoats and a silver watch from Vincent Zerchie on the 18th of November. The jury recommended them to mergy.

Milson and Wagner were each sent to the State Prison for one year.

Grouge harrison pleaded guilty to an attempt at grand larceny, the charge being that on the 2d of this month he stole wearing apparel valued at \$100, the property of Hoses F. Wood.

Charles Hoyle and Frederica Gamble, charged with assault with intent to kill, were convicted of assaulting Patrick Carroll on New Year's night at No. 626 Math street. Mr. Hummel desended the prisoners.

prisoners.

The e prisoners were sent to the Penitentiary for one year.

Refuge for Pocket Picking. Edward Kilbaine, a little newsboy, was tried and convicted of stealing from the overcoat pocket of Julius Rochell, last month, a twenty-five cent stamp, in Chatham street.

Michael Heffern, another member of the craft,

pleaded guilty to stealing seventy-five cents from the person of Benjamin Shreever on the 10th of the

month.

Laniel Lee, who is said to be the leader of the gang of young taleves who intest Printing House square, pleaded guilty to stealing fifty cents from the overcoat pocket of Alexaner A. Grainard.

Each of the above was sent to the House of

Racing of the above was sent to the house of Reinge.

Martin Kup'er pleaded guilty to an indictmen charging him with stealing a quantity of human bair, on the lith inst, from his employer, Gustavus Kauchtus. bere were mitiga-ing circumstances, which induced his nonor to send him to the Penitentury for three months. John Creymoor pieaded guilty to assaulting Mary Burns on the 27th of February with a cotton book. He struck at her, but was prevented from in uring her by another party interfering. He was sent to the Penitentiary for seven months

FIFTY-SEVENTH STREET POLICE COURT. Defrauded Out of \$400. Before Justice Murray.

A few days ago Frank Drought, of 119 Leonard street, saw an advertisement as follows:-Wanted—A man with from \$900 to \$500 cash as collector; good salary and security. Apply at 8.4 Second avenue, corner of a crty-third street (liquor store).

E. EVANS.

He applied for the position, and having \$100 cash, which he agreed to give as security for his honesty, he was accepted. Evans represented that he and Edwin Harley owned the st re and another one on First avenue, and agreed to give Drought for the first month \$16 a week and \$20 thereafter. Fo a man who had been idle as long as he had been the prospect thus held out to him was a dazzing one, and, ignorant and inexperienced as he was, it is not strange that he cell a victim to these two sharpers. They gave him a receipt for his money, which both signed, but with this indorsement brought was not satisfied, and a man named w. Aldrich, who said he owned a whole block of houses in the neighborhood, also indorsed the receipt. He was then satisfied; but, two days having passed without his being put to work at collecting, he became uncasy, his suspicious were confirmed by seeing a similar advertisement to the foregoing again published on the 1str inst. He demanded back his money, but did not get it, of course. He applied to Captain Gunner and before were arrained be one lindge hurray, who committed them in default of \$2,000 ball each. The accused were yesterday sent to the Tombs and the papers sent to the District Attorney.

Owners for Stolen Hankets Wanted.

A boy named Michael Fenton was arrested by another one on First avenue, and agreed to give

A boy named Michael Fenton was arrested by Detective McGowan, of the Nineteenth precinct, on inursday, for stealing horse blankets. Through him a large numo r of valuable blankets have been recovered that were undoubtedly stolen. They are now at the Mineteenth precinct station house swaiting owners.

BROOKLYN COURTS.

The counsel for Messrs. Sanborn, Hawley and Vanderwerken had a conference with United States District Attorney Tenney yesterday, in order to say whether they would be ready to go to trial on the 25th inst., for which day Judge Benedict had ordered a special pent jury in the United States ordered a special peat jury in the United States Carcuit Court. A new indictment having been lound, counsel said that they had been unable to communicate with Sanborn, but they thought that they would hear from him that day. He had been subposned to appear before a committee in Washington on Tuesday, however, and counsel, therefore, cound not say whether they would be able to go to trial on the 25th inst. Mr. Tenney said be would be ready. Counsel hor the delence agreed to notify the District Attorney as soon as practicable whether they would be ready to proceed to trial on the day designated.

The March Circuit of the Supreme Court has ad-

The March Circuit of the Supreme Court has ad-The March Circuit of the Supreme Court has adjourned. Judge Pratt, for the most part, has presided in the Circuit since January, and, being assigned to the April Circuit, will devote the balance of the present month to some old business. Judge Gilbert, who has recently been in Brooklyn, holding Special Term and hearing several Circuit cases, has been assigned to the April General Term at Kochester.

CITY COURT-SPECIAL TERM.

Interesting to Railroad Companies-Can the Crosstown Company "Water"

Their Stock ! Beiore Judge Neilson, By Judge Curtis.

Birck vs. Birck.—Reierence ordered to take

Crosstown Railroad Company, applied for an injunction to restrain the Board of Directors from Alderman Demas Strong, a stockholder in the increasing their stock, and yesterday Judge Neilson rendered the following interesting decision in

the case:- .

increasing their stock, and yesterday Judge Neilson rendered the following interesting decision in the case:

The capital stock of the company was increased from \$505,000 to \$400,000 by the vote of the stockholders at a meeting heid on the 29th day of December, 1860. The proceedings appear to have been to conformity to the statute (T. L., 1850, p. 214, section 9.) The avowed purposes for which the increase of the capital was made were:

First, to meet demands which might arise under the convertible clause in bonds of the company which had been issued, and, second, to provide sufficient means for constructing and equipping the road. Those bonds were alterwards retired and catisfied out of other means of the company; but on the 5th of February, 1874, the Board of Directors, considering it necessary to apply the increased capital to meet expenses in constructing and equipping the road, resolved that 1,000 shares of the capital stock of the par value of \$100 per share should be offered for sale at \$50 per shares of the capital stock of the par value of \$100 per share should be offered for sale at \$50 per shares of the capital stock of the par value of \$100 per share should be offered for sale at \$50 per shares the privilege of purchasing the shares at that rate to be first given to stockholders. The planning a stockholder in the company, exhibits his oill on his own benaif and on benait of other stockholders who may elect to come in, &c., and seeks to restrain the issuing and sale of that additional shock. He caims that the directors are proceeding to that matter without right or legal authority; that the issuing and she of that additional shock he capital shock of the company and all the directors. The thinderity; that the stock holders at their meeting, becamber 29, 1898, was merely to issue the company and all the directors. The thoory on the part of the complainant is that the capital stock of this company has not been increased; that the authority given by the stockholders at their meeting, December 29, 1898, this aspect is strongly contrasted with the principle applied by Ven. Wood in Fisher vs. Whalley (2 H. & M. 10), and by Redfield (Law of Kaliroads, vol. 1, p. 555) to an oid resonation authorizing the issue of shares for a purpose which had ceased to be available. It was held that an injunction will be issued to restrain such action by the directors, it not being a question of the internal management of the company. In this matter one of the purposes for which the capital was increased remains to be carried out with the means arising from the sale of the stock—to wit, the construction and equipment of the road. If in the progress made in that work and in obtaining supplies debts had been contracted the proceeds of the stock would have been applicable to the payment of such debts. The resolution of the 5th of February proceeds upon the correct principle in giving a preference to stockholders in proportion to the shares held by them, the augmentation of the capital being for the benefit of the joint concern. (3 Mass. R. 364;10 Ohio R., 21. By the buil and in the argument of the learned counsel for the plaintiff the sale of the new stock at the reduced rate proposed is made a substantial ground of objection. It is alleged that such sale will depreciate the value of the stock, an opinion or conclusion. But it does not appear what the value of the original stock is in the market, or that it is worth more, or that the new stock could be sold for more than firty per cent of the pay value. Nor is it shown that the debts incurred and expenditure necessary to complete and equip the road could be met by other means, or oy any means possessed by the corporation independently of the new stock. But if the issue and sale would reduce the value of the stock, that is an incident not affecting its innerent value. (Frankner vs. Hebard, 26 Vt. R. 462.) It was held in that case that one who had contracted to pur-

chase the old stock could not rescind the contract by reason of a change in the value so cased. It is apparent that one contracting to take and pay a certain price for the old stock without having reason to apprehend such increase of the stock and reduction of its market price or value stands and reduction of its market price or value stands in the same relation to such changes as one aiready owning a like number of shares. [59 Me., 270.] The question whether the arock to be issued should be put on the market at a pice lower than the par value thereof is proper for the consideration of the directors, is addressed to their judgment and of necessity to their discretion. One of the innerent powers peculiar to the board of the innerent powers peculiar to the board of the innerent powers peculiar to the board of the certicos of such a corporation is thus called into exercise. On due consideration I am satisfied that, in view of the method provided by statue for the increase of the capital stock and of the action of the stockholders in voting that increase, and of the double purpose assigned, one of which is now to be provided for, this stock may be legally issued and sold as proposed.

It follows that the injunction cannot be continued.

COURT OF SESSIONS.

A Woman Convicted of Perjury. Before Judge Moore.

Catharine Daly was convicted of perjury yesterday. The prisoner and her two sisters have been frequenters of the Court House for several years past, having been involved in a litigation about property owned by one of the sisters, Ann Daly, and on which the prisoner had a mortgage. It was generally believed that the prisoner was insane, and that is the opinion to-day of all those who have come in contact with her. The result of the litigation was that the Dalys lost all their prop-erty and Catharine was ar ested on the charge of faise swearing in supplementary proceedings in-stituted by the party who had got a judement against her sister Ann. I he case went to the jury without argument and the prisoner was found guilty. Counsel for delence applied for and obtained a stay of proceedings. who have come in contact with her. The result of

UNITED STATES SUPREME COURT.

No. 230. Warren vs. Van Brunt et al.-Error to the Supreme Court of Minnesota.—This was a contest concerning the preemption title to certain land in Minnesota, upon which Warren and Van Brunt had both entered. Warren claimed that Van Brunt entered only as his tenant and employé, and Van Brunt asserted that they had made the entry jointly. Van Brunt applied for a patent, and, dying, his widow obtained the patent under the decision of the General Land Office in her rayor. The Supreme Court of the State held that the proper others of the government had, in the discretion which was reposed in them, decided the question of the locality of the entries made by the parties, and had determined that the improvements made and required were those of Van Brunt, entiting him to the patent. Their decision was small. Thus holding the case was dismissed. It is acre contended that the Court erred in this decision, and that there should have been a patent to the two in common it the decision was not in favor of Warien. The defendants in error urge that there is no iederal question in the case, and that there is no iederal question in the case, and that this Court, therefore, has no jurisdiction to review the decision. Wilkinson and Davis for plaintiffs in error, Carlisle and McPherson for decendant. and, dying, his widow obtained the patent under

No. 229. Nash et al. vs. Williams, executrix-

Error to the Circuit Court for the Western District of Texas.—This was an action of trespass for the recovery of a league of land on the Colorado River, R. W. Williams, deceased, whose claim was upon an administrator's deed, made in pursuance of an order of the Probate Court of the proper county. The delence of the plaintiffs in error was that the order and decrees of the Probate Court were void for want of jurisdiction; but that, if not so held, then they were void because obtained by raud and collusion, no such desendants being established collusion, no such deiendants being established against the estate of the intestate as those for white the alleged sale was made. They set up title under one connect, who claimed to have purchased the property from the heirs of the intestate, and also to have become owner by reason of a marsal's sale to him, the sale being based on a judgment recovered against the intestate, on the trial a question arose whether the noise of the intestate held by Connect, and upon which the judgment was obtained, were given for a valuable consideration, it appearing that were given in part or slaves purchased of Connect by the intestate, which connect had foreign from Missouri in 1861 after the commencement of the war. On these facts the Court held that, as the slaves were removed from Missouri, the sale made of them was an actizen of Missouri, the sale made of them was an anniaw at act on his part, contrary to his duty as a citizen of Missouri, the sale made of the war, and was in Texas a transaction void in law, and which cannot be enforced in the courts. The judgment was for the executrix, and it is here insisted, among errors assigned, that this ruining of the Court was a misrepresentation of the lacts and inapplicable to the case; that Connect, being in sympathy with the South removed his property, and that his intention was not simply, or at all, to sell the slaves. On the contrary, that, on arriving in Texas, he hired his slaves in most instances until 184, when they were sold to Williams. George F. Moore and John Hancock for plaintins in error and Jackson and James A. Buchanan for defendant. against the estate of the intestate as those for

ion Before the Co

medical testimony touching the case of Joseph to have been brutally beaten by Officers Fitzpatrick and Touhey, of the Nineteenth precinct. The prisoners, who had been orought from the Tombs, were present, and appeared exceedingly auxious to give their evidence and also that their witnesses might be examined, but the decision of the Coroner was against them. The following is the

to give their evidence and also that their witnesses might be examined, but the decision of the Coroner was against them. The following is the testimony of Deputy Coroner Leo:—

In compliance with Coroner Kessler's request I visited Mr. Kollman at No. 407 East Forly-sixth street this morning at nine o'clock; met there Drs. Satteriee and Thomas, of the Police Department, and Myllus and Gueke, attending surgeons to the injured man; Mr. Kollman got out of bed and seated himself on a chair, so as to afford us a better opp-runity to make an examination of his wounds; his puse averaged about eighty, respiration 24, with a medium temperature; two inches above the left eye was a cut of an inch and three quarters in length, while on the right eye brow, near the external anguar process of the orbit, was a cut of about one and a nail inches; there was considerable ecctymosis beneath and around the right eye and a rather suspicious fulness on the right side of the face, sightly indicative of ergsipelas; on the dorsal aspect o; left arm, last above the wrist, was a busie and also at the cloow joint; the pupils of both eyes were examined with a negative result; the patient seemed exceedingly nervous and rather weak, and complained of cansiderable pain and therefores in his left side; the scaip of head was extremely sensitive to touch; in conclusion, I can only say that I find as yet no pretext on which to base a favorable prognosis or termination of Mr. Kollman's case.

August Guleke, M. D., deposed to attending on Kollman after the beating; jound him weak from loss of clood, and on Thursday morning his puise was so low that I considered his life to be in danger; there were some lears of cr. sipelas ensuing; think he is not yet out of danger.

Dr. Sateriee, police surgion, testified that he was called to dress the wounds of Mr. Kollman, yesterday morning in company with Kollman yesterday morning in company with Kollman yesterday morning in company of the face with season be only purpose in this examination was to determine t

THE VIRGINIUS CASE.

British Investigation Preparatory to a Demand on Spain. The Kingston (Jamaica) Gleaner of March

says:- In accordance with instructions received from Her Majesty's government an inquiry will shortly be held in respect to the relatives of those British subjects who were captured on board the steamer Virginius and shot by order of General Burriel at Santiago de Cuba. It is surmised that this inquiry is with a view to securing compensation from the Spanish government.

REAL ESTATE.

Analysis of the Present Condition of the Market, Its Prospects and Possibilities.

THE LOST STANDARD OF VALUE.

Why Real Estate Is Bull and What Might Be Done to Revive It.

There is a community of interest in all the various departments of industrial or commercial activity, in speculative enterprise as in the more solid business of investment, which renders them all liable to be affected in a greater or less degree by the same influences. Real estate is not superior to the conditions which affect all other species of property, and in respect to value receives its stimulus or its check in due proportion under the operation of recognized and well known laws. Thus while real estate maintained a firm front during the recent panic, and still maintains it, because that was a monetary panic in a time of productive plenty—a thunder clap, as it were, in the midst of a clear sky—which, if it had been per-mitted to pass away, would have left only a clearer atmosphere behind; yet inasmuch as

THE BLUNDERING POLICY OF THE TREASURY DE-

perpetuated its dangers, so real estate is beginning now to wheel into line with the other interests that suffered through this crisis. At present it is only stagnation; but what is to come next? It is well, just at this stage, to pause and examine, that the result, when it does come, may not be a surprise. Everybody who watched closely the origin and progress of the recent panic was sur-prised at the wonderful recuperative energy which the country exhibited after the first shock was over, when the banks throughout the country followed the example of the New York banks in applying as a remedy for the existing great evil of hoarding, which made money scarce, the principle of free banking, which authorizes the creation of currency in proportion to business needs. This was precisely what

THE ISSUE OF THE BANK CERTIFICATES meant. It was, perhaps, contrary to law, as it involved the issue of additional currency. That such was its character is abundantly proven by the fact that even after the banks resumed the publication of their weekly statements these certificates, a large amount of which were then outstanding, never appeared in such statements. They were not loans, because they were not money, and they they were unauthorized by law. They were, how-ever, to all intents and purposes currency; and, supplying the place of that which was locked up by ignorant and frightened owners, they carried us through the panic in safety. When confidence was restored and money began to come out sgain from its secret hiding places these certificates were gracually withdrawn and replaced with regular currency—a most notable exhibition of the value of a free banking system. Real estate through all this interval,

ALTHOUGH DULL, MAINTAINED ITS STRENGTH AND

Although Dull, Maintained its Strength and Firmness, and as other values began slowly to recover from the shock they had received and business seemed to be reviving, the stable character of real estate values, as contrasted with others it was thought, would provoke a large investment demand in that direction this spring, and an active market was looked for to compensate for previous diliness and hazard. There can be no dout, either, that that-expectation would have been realized if the same saigacity which led the Secretary of the Trensury to oppose the issue of the \$44,000,000 reserve at the meeting held at the Fifth Avenne Hotel, in this city, in the early days of the panic, had prevailed with him to continue his opposition. A special seasion of Congress, called for the purpose of authorizing a new short loan to meet current expenses of the government, would have cost the country less by millions than the penny wise and pound looisis policy which afterward prevailed.

Even

pound looksh policy which afterward prevailed.

Even

A BOLD STEP,

such as would have added the entire \$44,000,000 socalled reserve to the permanent circulation of the
country, while it might have created more violent
opposition, would not have deranged trade to the
extent that the vibratory policy pursued of varying the limit from day to day has. The evil would
then have been known to its full extent, and could
have been intelligently encountered; but the evil
is yet with us, and no man knows when it will end.
Thus trade of every kind throughout the country
is paralyzed, and the year seems likely to go
by without leaving any profits or accumulations
in the hands of business men. The danger
thus come upon us was early pointed out in this
column to real estate owners, and they were
warned to bring their influence to bear upon Congress for a speedy solution of the financial probiem, eise their interests would certainly suffer by
delay. And
THESE INTERESTS, IN COMMON WITH ALL OTHER INTERESTS,
have suffered and are suffering by this continued

have suffered and are suffering by this continued agreement of the Doctors—Fitzpatrick and Touhey Held in \$10,000 Ball Each—
Recommitted to the Tombs.

Yesterday afternoon Coroner Kessier took some nedical testimony touching the case of Joseph Coliman, of No. 407 East Forty-eight street, alleged oo have been brutally beaten by Officers Fitzpatrick and Touhey, of the Nineteenth precinct. The risoners, who had been orought from the Tombs,

delay, which, if persisted in, threatens serious danger here, especially to high priced property within the old city limits. Taxes and assessments continue to increase upon this class of property to a burdensome degree, and there is no standard even in a sale, for there is no standard even in a sale,

ments. But THERE CAN BE NO REAL ACTIVITY WHILE THE STAND

THERE CAN BE NO REAL ACTIVITY WHILE THE STANDARD OF EXCHANGE IS VARIABLE
and uncertain. Sales are yet possible where owners are ready to make liberal concessions, as there is always capital willing and anxious to invest in New York real estate, at anything below current values—and in this case suce concession must take into account the existing chances of Congressional action or inaction; but the market that was hoped for earlier in the spring is fast receding from expectation. Latest advices from Albany state that the bill to repeal

THE TAX ON MORTGAGES

was reported adversely. This result was already discounted. There is no doubt it much have been reported favorably if the real estate owners of this city had made up a "pool" to lobby it through but real estate is already too much overburdened with increasing taxes and assessments without corresponding improvements to assume a greater burden in order to fee men to do what is simply an act of justice to the metropolitan district, the so-called fears of the country memoers being all moonshine or only "a strike." As the session advances

RAPID TRANSIT SERMS TO RECEDE

as an accomplished fact rather than advance.

act of justice to the metropolitan district, the socalled fears of the country memoers being all
moonshine or only "a strike." As the session advances

RAPID TRANSIT SERMS TO RECEDE

as an accomplished fact rather than advance. A
great deal of opposition to it comes irom the uptown property owners below 155th street, the same
class who are most affected by the present dulness
of the market, who are jealous of the more rapid
growth of the section of the city north of them if
fapid transit should bring the lower priced property
within easy distance of New York. This is really
shortsighted on their part, as the growth of New
York to its farthest limit must enhance the value
of the entire real estate of the city, as a population
of 1,000,000. The timmediate present is of
great gravity in respect to this year's real estate
market, but if Congress will only hasten to apply
the much needed renef in the shape of prompt action on the financial question, particularly in flating the limit of the legal tender circulation, there
is a chance yet that the market may revive. In
this connection

This real estate in the shape of prompt action the financial question, particularly in flashape the prompt action. If they fall in this and
the continued tribing of Congress should precipitate
another pamic upon the country they will be certain to regret a lost opportunity. When the next
balance sheet is made up throughout the country,
ou the 31st of next December, if there be no
profit shown to business men for the year's
transactions real estate will sufer.

In the meantime, however, to those who can
afford to hold their property there is no danger in
this temporary depression. The inevitable tendency of real estate values in New York city is upward, and it is only when some great derangement of trade occurs such as now presses heavily
upon the entire business of the country that these
values are at all unpaired. The cause in the pressule of the same the state will sufer.

For the three story brick house and lo